

FEB 27 2008

REMARKS/ARGUMENTS

This Amendment is submitted in response to the Office Action mailed November 27, 2007. The deadline for responding expires on February 27, 2008.

Applicants undersigned representative hereby requests an interview prior to issuance of the next office action if after reading this amendment the Examiner believes there are still any §112 issues which need to be addressed to place the application in condition for allowance. The Examiner is invited to call Applicant's undersigned representative, Michael P. Straub at 732-542-9070 to schedule the requested interview. It is hoped that if there are any issues remaining that may need to be resolved to place the application in condition for allowance the issued can be addressed during the interview.

**I. Introduction**

Claims 26-66 are pending in the application. Claims 26-54 stand allowed while claims 55-66 stand rejected under 35 USC 112.

While reviewing various claims, it was noticed that a period (.) was missing at the end of claim 31. Claim 31 has been amended to address this issue. In addition various other claims have been amended.

Applicants will now address and overcome the rejections under 35 USC §112.

**II. The §112 First Paragraph Rejections of Claims 58-66 have been Overcome**

In the Office Action the Examiner rejected claims 58-66 under 35 USC 112, first paragraph stating "The

specification does not disclose computer readable medium."  
(See Office Action Page 2)

**1. The 112, 1<sup>st</sup> Paragraph Rejection  
of Claims 58-63 have been overcome**

Applicants note that claims 58-63 were previously directed to "a computer readable medium". While Applicant does not agree with the Examiner's rejection to facilitate allowance Applicant has amended claims 58-63 so that they are now directed to: a "memory device embodying computer executable instructions".

Applicant's respectfully submit that the application includes clear and unambiguous support for a memory device embodying computer executable instructions.

See, for example, page 10 lines 3-9 which recites:

**Memory 216 includes a timing control routine  
218 that is executed by CPU 220.**

See also, page 16 lines 5-7 which recite:

**The illustrated functions may be performed  
using a CPU in the wireless terminal  
executing one or more routines obtained from  
memory which is also included in the  
wireless terminal.**

See also page 21 lines 6-15 which expressly that  
discuss a processor executing **computer executable  
instructions.**

The steps of the various methods may be implemented in a variety of ways, e.g., using software, hardware or a combination of software and hardware to perform each individual step or combination of steps discussed above. Accordingly, various embodiments of the present

invention include means for performing the steps of the various methods. Each means may be implemented using software, hardware, e.g., circuits, or a combination of software and hardware. **When software is used, the means for performing a step may also include circuitry such as a processor for executing the software.** Accordingly, the present invention is directed to, among other things, computer executable instructions such as software for controlling a machine or circuit to perform one or more of the steps discussed above. (bold and underlining added)

In view of the amendments and above remarks, it is respectfully submitted that the 35 USC 112, first paragraph rejection of claims 58-63 has been overcome.

2. **The 112, 1<sup>st</sup> Paragraph Rejection of Claims 64-66 have been overcome**

The only grounds the Examiner presented for the 35 USC 112, first paragraph rejection was the alleged failure to disclose a "computer readable medium".

Applicant notes that as amended claims 64-66 are directed to a **processor** including various "means". The application includes clear support for the recited processor and there is no computer readable medium recited in claims 64-66.

For example of support for the processor see the above sections quoted from the application in regard to claims 58-63 including for example page 21 which recites:

...various embodiments of the present invention include means for performing the steps of the various methods. Means for performing a step may also include circuitry such as a processor for executing the software. Accordingly, the present invention is directed

to, among other things, computer executable instructions such as software for controlling a machine or circuit to perform one or more of the steps discussed above.... **(bold added)**

In view of the above remarks, it is respectfully submitted that the application includes clear support for the "processor" recited in claims 64-66 and that the 35 USC 112, first paragraph rejection of these claims should be withdrawn.

**III. The §112 Second Paragraph Rejections of Claims 55-57 have been Overcome**

The Examiner rejected claims 55-57 under 35 USC 112, second paragraph, as being narrative in form.

The Applicant has amended claims 55 and 57 to address and overcome the rejection. Claims 55 and 57 have been amended to recite "means for" performing the various functions mentioned in the claims. As amended, the claims are no longer "narrative in form" and are directed to allowable subject matter in a form which is recognized to be patentable.

**IV. Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that the pending claims are in condition for allowance. Accordingly, it is requested that the Examiner pass this application to issue.

If there are any outstanding issues which need to be resolved to place the application in condition for allowance **the Examiner is requested to call (732-542-9070) and schedule an interview with Applicant's undersigned representative.** To the extent necessary, a petition for

extension of time under 37 C.F.R. 1.136 is hereby made and any required fee in regard to the extension or this amendment is authorized to be charged to the deposit account of Straub & Pokotylo, deposit account number 50-1049.

None of the statements or discussion made herein are intended to be an admission that any of the applied references are prior art to the present application and Applicants preserve the right to establish that one or more of the applied references are not prior art.

Respectfully submitted,

February 27, 2008

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this paper (and any accompanying paper(s)) is being facsimile transmitted to the United States Patent Office on the date shown below.

Michael P. Straub

Type or print name of person signing certification

Michael P. Straub  
Signature

February 27, 2008  
Date